IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Asraf Ali & Anr. Vs. State of Rajasthan

S.B.CR.REVISION PETITION NO.47/2006

against the order dt.24.11.2005 passed by Additional Sessions Judge, Chittorgarh Camp Begun in Sessions Case No.68/2005.

DATE OF ORDER :: April 24, 2006

HON'BLE MR.H.R.PANWAR,J.

Mr.M.K.Garg, for the petitioners.
Mr.J.P.S.Choudhary, Public Prosecutor for the State.

BY THE COURT:

The instant criminal revision petition filed under section 397/401 of the Code of Criminal Procedure, 1973 (for short `the Code' hereinafter) is directed against the order dt. 24.11.2005 passed by Additional Sessions Judge, Chittorgarh Camp Begun (for short `the trial court' hereinafter) in Sessions Case No.68/2005, whereby the trial court framed the charges against the petitioners for the offences under sections 452, 307, 307/34, 323 and 323/34 I.P.C.

I have heard learned counsel for the parties. Perused the

order impugned and challan papers.

Learned counsel for the petitioners has confined his arguments and challenged the order impugned to the extent framing of charges against the petitioners for the offences under sections 307 and 307/34 I.P.C., however, he has not assailed the order impugned to the extent framing charges against the petitioners for the offences under sections 452, 323 and 323/34 I.P.C.

From the perusal of the challan papers, it appears that the single injury suffered by injured Pappu has been assigned to one Liyakat, who has not been challaned. Injured Pappu suffered lacerated wound by blunt object, which is simple in nature. Other injured is Panna Lal, who alleged to have suffered one lacerated wound and two abrasions; the lacerated wound is measuring 5x1/2 cm. by blunt object, which is simple in nature, other injuries are the abrasions on forearm and little finger, which are also by blunt object and simple in nature. From perusal of the challan papers and statements of the prosecution witnesses as also keeping in view the nature of the injuries suffered by Panna Lal, it cannot be said that the petitioners inflicted injuries with the intention or knowledge, and under such circumstances that, if they by that act caused death, they would

be guilty of murder. The very essential ingredients of section 307 I.P.C. are not made out from the material available on record. In the circumstances, therefore, the order impugned to the extent of framing charge against the petitioners for the offences under sections 307 and 307/34 I.P.C. cannot be sustained and is liable to be set aside.

Consequently, the revision petition is partly allowed. Order impugned to the extent framing of charge against the petitioners for the offences under sections 307 and 307/34 I.P.C. is set aside. The trial court shall proceed in accordance with the provisions of section 228 of the Code. The stay petition stands disposed of.

[H.R.PANWAR].J.

m.asif/-